

STATE OF SOUTH CAROLINA

(Caption of Case)

Application of Utilities Services of South Carolina, Inc. for adjustment of rates and charges and modifications to certain terms and conditions for the provision of water and sewer service.

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BEFORE THE
PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA

COVER SHEET

DOCKET
NUMBER: 2007 - 286 - WS

(Please type or print)

Submitted by: Benjamin P. Mustian

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NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for use by the Public Service Commission of South Carolina for the purpose of docketing and must be filled out completely.

DOCKETING INFORMATION (Check all that apply)

☐ Emergency Relief demanded in petition

☐ Request for item to be placed on Commission's Agenda expeditiously

☒ Other:

INDUSTRY (Check one)

- ☐ Electric
☐ Electric/Gas
☐ Electric/Telecommunications
☐ Electric/Water
☐ Electric/Water/Telecom.
☐ Electric/Water/Sewer
☐ Gas
☐ Railroad
☐ Sewer
☐ Telecommunications
☐ Transportation
☐ Water
☒ Water/Sewer
☐ Administrative Matter
☐ Other:

NATURE OF ACTION (Check all that apply)

- ☐ Affidavit
☐ Agreement
☐ Answer
☐ Appellate Review
☐ Application
☐ Brief
☐ Certificate
☐ Comments
☐ Complaint
☐ Consent Order
☐ Discovery
☐ Exhibit
☐ Expedited Consideration
☐ Interconnection Agreement
☐ Interconnection Amendment
☐ Late-Filed Exhibit
☐ Letter
☐ Memorandum
☐ Motion
☐ Objection
☐ Petition
☐ Petition for Reconsideration
☐ Petition for Rulemaking
☐ Petition for Rule to Show Cause
☐ Petition to Intervene
☐ Petition to Intervene Out of Time
☐ Prefiled Testimony
☐ Promotion
☒ Proposed Order
☐ Protest
☐ Publisher's Affidavit
☐ Report
☐ Request
☐ Request for Certification
☐ Request for Investigation
☐ Resale Agreement
☐ Resale Amendment
☐ Reservation Letter
☐ Response
☐ Response to Discovery
☐ Return to Petition
☐ Stipulation
☐ Subpoena
☐ Tariff
☐ Other:

Print Form

Reset Form

WILLOUGHBY & HOEFER, P.A.

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January 18, 2008

VIA HAND-DELIVERY

The Honorable Charles L.A. Terreni
Chief Clerk/Administrator
Public Service Commission of South Carolina
101 Executive Center Drive
Columbia, South Carolina 29210

RECEIVED
2008 JAN 18 PM 3:30
SC PUBLIC SERVICE
COMMISSION

RE: Application of Utilities Services of South Carolina, Inc. for adjustment of rates and charges and modifications to certain terms and conditions for the provision of water and sewer service; Docket No. 2007-286-WS

Dear Mr. Terreni:

Enclosed for filing please find the original and two (2) copies of Utilities Services of South Carolina, Inc.'s Proposed Order in the above-referenced matter.

I would appreciate your acknowledging receipt of this document by date-stamping the extra copy that is enclosed and returning it to me via our courier delivering same. By copy of this letter, I am serving all parties of record and enclose my certificate of service to that effect. If you have any questions, or need additional information, please do not hesitate to contact us.

Sincerely,

Willoughby & Hoefer, P.A.



Benjamin P. Mustian

cc: Jeffrey M. Nelson, Esquire

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA

DOCKET NO. 2007-286-WS

IN RE:)
)
Application of Utilities Services of)
South Carolina, Inc. for adjustment of)
rates and charges and modifications to)
certain terms and conditions for the)
provision of water and sewer service.)
_____)

CERTIFICATE OF SERVICE

RECEIVED
2008 JAN 18 PM 3:31
SC PUBLIC SERVICE
COMMISSION

This is to certify that I have caused to be served this day one (1) copy of **Applicant's Proposed Order** by placing same in the care and custody of the United States Postal Service with first class postage affixed thereto and addressed as follows:

Jeffrey M. Nelson, Esquire
Office of Regulatory Staff
Post Office Box 11263
Columbia, South Carolina 29211

Clark Fancher
Clark Fancher

Columbia, South Carolina
This 18th day of January, 2008.

RECEIVED
2008 JAN 18 PM 4:40
SC PUBLIC SERVICE
COMMISSION

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA

DOCKET NO. 2007-286-W/S – ORDER NO. 2008-_____

IN RE:)
)
Application of Utilities Services of)
South Carolina, Inc. for adjustment of)
rates and charges and modifications to)
certain terms and conditions for the)
provision of water and sewer service.)
_____)

**PROPOSED ORDER OF
UTILITIES SERVICES OF
SOUTH CAROLINA, INC.**

I. INTRODUCTION

This matter is before the Public Service Commission of South Carolina (“Commission”) on the Application of Utilities Services of South Carolina, Inc. (“USSC” or “Company”) for approval of a new schedule of rates and charges and modifications to certain terms and conditions for the provision of water and sewer services for its customers in South Carolina. USSC filed its Application on August 6, 2007, pursuant to S.C. Code Ann. § 58-5-240 (Supp. 2003) and 26 S.C. Code Ann. Regs. RR. 103-703 (1976, as amended), 103-512.4.A (Supp. 2006) and 103-712.4.A (1976, as amended).

By correspondence, the Commission’s Docketing Department instructed USSC to publish a prepared Notice of Filing, one time, in a newspaper of general circulation in the area affected by USSC’s Application and to mail copies of the Notice of Filing to all customers affected by the

proposed rates and charges and modifications. The Notice of Filing indicated the nature of the Application and advised all interested parties desiring to participate in the scheduled proceeding of the manner and time in which to file the appropriate pleadings. USSC filed affidavits showing that it had complied with the Docketing Department's instructions.

No Petitions to Intervene were filed in this case in response to the Notice of Filing. The Commission received letters of protest from seventy-eight (78) USSC customers. Pursuant to S.C. Code Ann. Section 58-4-10(B) (Supp. 2006), ORS is a party of record in this proceeding. Further, ORS and USSC are the only parties of record in the above-captioned docket.

The Commission held two (2) separate public hearings in York and Anderson counties for the purpose of allowing USSC's customers to present their views regarding the Application.¹ A total of forty-two (42) customers testified at these hearings. Thereafter, on December 13, 2007, at 10:30 a.m., an evidentiary hearing was convened before the Commission in its offices in Columbia with the Honorable G. O'Neal Hamilton presiding. USSC was represented at the hearing by John M.S. Hoefer, Esquire, and Benjamin P. Mustian, Esquire. Jeffrey M. Nelson, Esquire, and Shealy B. Reibold, Esquire, represented the ORS. Prior to the presentation of the cases of the parties of record, the Commission permitted five (5) customers to testify. USSC presented the direct testimony of four (4) witnesses: Pauline M. Ahern, CRRA, Principal with AUS Consultants; B.R. Skelton, Ph.D., Lena Georgiev, Senior Regulatory Accountant, and

¹ These hearings were held November 5, 2007 in Anderson, and November 7, 2007 in Rock Hill. Pursuant to directions of the Commission's Docketing Department, notice of these hearings was given to affected customers by the Company as reflected in an affidavit filed by the Company.

Bruce T. Haas, USSC Regional Director of Operations. USSC also presented rebuttal testimony of Lena Georgiev and Bruce T. Haas. ORS presented the direct testimony of Douglas H. Carlisle, Ph.D. Economist for ORS, and direct and surrebuttal testimony of Willie J. Morgan, P.E., the Program Manager for its Water and Wastewater Department, and Paul B. Townes, Audit Manager for ORS.

In considering the Application of USSC, the Commission must consider competing interests to arrive at just and reasonable rates. These competing interests are those of the ratepayer and those of the utility, which has the right to earn a fair return. *S.C. Cable Television Ass'n v. Public Serv. Comm'n*, 313 S.C. 48, 437 S.E.2d 38 (1993). In so doing, we may consider the quality of the utility's service, which is determined by reference to its adequacy. *Patton v. S.C. Public Serv. Comm'n*, 280 S.C. 288, 312 S.E.2d 257 (1984). Regulation, as it has developed in the United States, is concerned with rates, service, [and] safety. Charles F. Phillips, Jr., *The Regulation of Public Utilities*, (1993) at 171. Rate regulation has two aspects: control of the rate level (earnings) and control of the rate structure (prices). *Id.* As to the rate level, public utilities are entitled to cover all allowable operating costs and to have the opportunity to earn a "fair" rate of return. *Id.* Collectively, these items comprise a company's total revenue requirement. *Id.* As to the rate structure, public utilities are permitted to establish rates that, at a minimum, will cover their revenue requirement. *Id.* at 171-72. Such rates must be "just and reasonable," with no "undue" discrimination. *Id.* at 172.

Thus, in considering the Application of USSC, the Commission must give due consideration to the Company's total revenue requirement, comprised of allowable operating

costs and the opportunity to earn a fair rate of return. To this end, the Commission will review the operating revenues and operating expenses of USSC and will endeavor to establish adequate and reasonable levels of revenues and expenses. Further, the Commission will consider a fair rate of return for USSC based upon the record before it. Should the Commission's determination show that rates should be increased, the Commission will then design rates that will meet the revenue requirements of USSC but that are also just and reasonable and free of undue discrimination.

II. PRELIMINARY MATTERS

A. USSC OBJECTION TO CUSTOMER TESTIMONY

Three public hearings were held in this Docket on November 5, 2007, November 7, 2007, and December 13, 2007. At each of these hearings, USSC raised a continuing objection to the Commission receiving and relying upon customer testimony, documents, and related exhibits "consisting of unsubstantiated complaints regarding customer service, quality of service, or customer relation issues." [Tr. 9 (Vol. 1); Tr. 14 (Vol. 2); Tr. 6 (Vol. 3).] Through this objection, USSC claims reliance on such testimony denies it due process of law, permits customers to circumvent complaint procedures, and is an inappropriate basis for the adjustment of just and reasonable rates. *Id.* In support of these arguments, USSC cites *Patton v. Public Service Commission*, 280 S.C. 288, 312 S.E.2d 257 (1984), the Order in the Court of Common Pleas in *Tega Cay Water Service v. S.C.P.S.C.*, C/A No. 97-CP-40-0923 (September 25, 1998), and the Commission's Order No. 1999-191 in Application of Tega Cay Water Service, Inc, Docket No. 96-137-WS. *Id.*

The Commission concludes that the Company's motion should be granted. Essentially, the objection raises the issue of whether an unsubstantiated complaint² regarding customer service, quality of service, or customer relations issues is properly considered in the instant case. We conclude that it is not for several reasons. First, there is the question of whether notice was given that customer complaints regarding quality of service would be considered in the context of this rate application proceeding. S.C. Code Ann. § 58-5-240 (Supp. 2006) does not contemplate that disputes between a public utility and an individual customer regarding quality of service are to be resolved in a rate case proceeding. To the contrary, if a customer is aggrieved by an act or omission of a public utility, the customer has the ability to file a complaint under S. C. Code Ann. § 58-5-270 (1976). The Company is then informed of the factual and legal grounds upon which the complaint is based, can engage in discovery and cross-examination, and thereby offer a defense to the customer's allegations in accordance with our rules of practice and procedure. See 26 S.C. Code Ann. Regs. RR. 103-821 (1976, as amended) and 103-835 (1976). Neither Section 58-5-270 nor our related regulations are referenced in our Order No. 2007-673 providing for the "night" hearings in this docket. Nor does Order No. 2007-673 provide that the Commission will address specific customer complaints of things or matters done or failed to be done by USSC. All parties must be placed on notice of the Commission's

² The Commission notes at the outset that none of the customers' complaints were substantiated in the sense that quantitative or scientific data demonstrating that service or facilities did not meet DHEC standards was not presented for the Commission's consideration. Thus, even if we were inclined to consider such complaints, they are unsupported by evidence. *See, Patton, supra*; *see also, Heater Utilities, Inc. v. PSC*, Op. No. 95-MO-365 (S.C. S.Ct. Filed December 8, 1995).

intent to take action affecting private rights. *See Porter v. S.C. Public Service Comm'n*, 338 S.C. 164, 525 S.E.2d 866 (2000). The Company, just like its customers, is entitled to administrative due process under S.C. Const. art. I, § 22. “The fundamental requirement of due process is the opportunity to be heard at a meaningful time and in a meaningful manner.” *S.C. Dep’t of Soc. Services v. Holden*, 319 S.C. 72, 78, 459 S.E.2d 846, 849 (1995). Were we to construe Sections 58-5-240 and 58-5-270 differently, rate case proceedings could become an avenue for customers to air grievances simply for the purpose of attempting to prejudice a public utility’s entitlement to rate relief by avoiding the procedure provided for by statute and our regulations for complaint matters. And, if the Commission were to consider such complaints in the context of rate adjustment proceedings, the affected utility would not have meaningful notice or a meaningful opportunity to be heard.

Accordingly, the Company’s motion is granted and customer testimony regarding quality of service is stricken and will not be considered by the Commission in this proceeding.

B. USSC OBJECTION TO TESTIMONY OF WITNESS SNAVELY

During the public hearing held on December 13, 2007, the Commission allowed five (5) “public” witnesses to present testimony regarding the Company’s application. At the outset of the testimony presented by John T. Snavely, USSC objected to any testimony presented by the witness which raised legal arguments. USSC asserted that Snavely had not petitioned the Commission to intervene in this matter and that no such intervention had been granted. Further, the Company maintains that in order for a person or entity to interject legal argument before the

Commission, they must be admitted as a party of record and represented by counsel admitted to practice in South Carolina.

The Commission finds that the Company's objection should be sustained and the testimony of Snavelly should be excluded from the record of this case. Snavelly's testimony was clearly intended to present legal opinions and assert legal positions regarding due process, notice, and regulations regarding practice and procedure before the Commission. [Tr. 7, ll. 12-17; p. 18, l. 18 – p. 9, l. 6; p. 10, l. 11 – p. 14, l. 14.] Moreover, Snavelly explicitly indicated that he was testifying in his capacity as an attorney stating "[t]his matter requires that I put somewhat of a lawyer hat back on to address this matter." [Tr. p. 7, ll. 9-11.] Testimony which is offered to establish a conclusion of law within the exclusive province of the court is properly excluded. *O'Quinn v. Beach Associates*, 272 S.C. 95, 249 S.E.2d 734, 740 (1978). Further, testimony which offers legal opinion on evidence may not be presented to the Commission. *See*, Commission Order No. 95-2, dated January 5, 1995, Docket No. 93-503-C; Commission Order No. 95-1176, dated May 31, 1995, Docket No. 94-712-C. *See also*, *Dawkins v. Fields*, 354 S.C. 58, 580 S.E.2d 433 (2003) (witness testimony which does not offer factual evidence but only provides legal argument is properly excludable); *Askanase v. Fatjo*, 130 F.3d 657, 673 (5th Cir.1997) (where the court disallowed a legal expert's opinion on whether corporate officers and directors breached their fiduciary duties because "[s]uch testimony is a legal opinion and inadmissible."); *United States v. Sinclair*, 74 F.3d 753, 758 n. 1 (7th Cir.1996) (commenting that Federal Rules of Evidence 702 and 704 prohibit experts from offering opinions about legal issues that will determine the outcome of a case).

Further, in order to properly present legal arguments to the Commission, a person must be admitted as a party in the proceeding and be represented by counsel. *See*, Commission Regulation 26 S.C. Code Ann. Regs. 103-804(T)(1) (State Register Volume 31, Issue 4, effective April 27, 2007). And, in order to participate in a proceeding as a party pursuant to 26 S.C. Code Ann. Regs. 103-804(L) (State Register Volume 31, Issue 4, effective April 27, 2007), a person must intervene by filing a petition before the Commission setting forth clearly and concisely:

- 1) the facts from which the nature of the petitioner's alleged right or interest can be determined;
- 2) the grounds of the proposed intervention;
- 3) the position of the petitioner in the proceeding.

Commission Regulation 26 S.C. Code Ann. Regs. 103-825(A)(3) (State Register Volume 31, Issue 4, effective April 27, 2007). Snavelly testified that he was aware of the Commission's regulations concerning intervention in proceedings and regarding practice and procedure before the Commission; however, no petition to intervene was filed in this matter. [Tr. p. 18, l. 24 – p. 19, l. 16]. The Commission believes that allowing this testimony to be admitted into the record of this proceeding would deny USSC administrative due process afforded it under S.C. Const. art. I, § 22. *See S.C. Dep't of Soc. Services v. Holden, supra*. This would effectively allow a person to present legal arguments to the Commission without having to properly notify parties of record to the proceeding as to the existence or basis of those positions.

Therefore, USSC's objection is sustained and Snavelly's testimony is stricken and will not be considered by the Commission in this proceeding.

III. FINDINGS OF FACT AND SUPPORTING EVIDENCE

1. USSC provides water service to approximately 6,854 customers and sewer service to approximately 376 customers through eighty-two separate water systems and four separate sewer systems throughout South Carolina. As a public utility, its operations are subject to the jurisdiction of the Commission pursuant to S.C. Code Ann. §§ 58-5-10 *et seq.* (1976 & Supp. 2006).

The evidence supporting this finding is contained in the Company's application, the testimony of its witnesses Haas [Haas Pre-filed Direct testimony, Tr. p. 204, ll. 20-22] and Georgiev [Georgiev Pre-filed Direct testimony, Tr. p. 162, ll. 10-17] and in the testimony of ORS witness Morgan [Morgan Pre-filed Direct testimony, Tr. p. 308 ll. 7-16].

2. The appropriate test year for purposes of this proceeding is the twelve month period ending December 31, 2006.

The evidence supporting this finding is contained in the Company's application, the testimony of its witness Georgiev [Georgiev Pre-filed Direct testimony, Tr. p. 166, ll. 12-13], the Audit Exhibit sponsored by ORS witness Townes [Townes Pre-filed Direct testimony, Tr. p. 277, ll. 5-10 and 16; Hearing Exhibit No. 11 at 1], and the testimony and exhibits of ORS witness Morgan [Morgan Pre-filed Direct testimony, Tr. p. 308, ll. 8-14; Hearing Exhibit No. 13 at 2] which reflects that USSC proposed a test year ending December 31, 2006, and that ORS accepted that as an appropriate test year. No other party objected to the proposed test year.

A fundamental principle of the ratemaking process is the establishment of a test year period. In *Heater of Seabrook v. Public Service Commission of South Carolina*, 324 S.C. 56, 478 S.E.2d 826 (1996), the Supreme Court observed that "[t]he 'test year' concept is very

important in the rate-setting process. In order to determine what a utility's expenses and revenues are for purposes of determining the reasonableness of a rate, one must select a 'test year' for the measurement of the expenses and revenues." *Id.*, 478 S.E.2d 828, n. 1. The test year is established to provide a basis for making the most accurate forecast of the utility's rate base, reserves, and expenses in the near future when the prescribed rates are in effect. *Porter v. South Carolina Pub. Serv. Comm'n*, 328 S.C. 222, 493 S.E.2d 92 (1997). The historical test year may be used as long as adjustments are made for any known and measurable out-of-period changes in expenses, revenues, and investments. *Id.* Accordingly, the Commission adopts the test year proposed by the Company and will make adjustments for any known and measurable changes outside the test year.

3. The Commission will use rate of return on rate base as a guide in determining just and reasonable rates.

The evidence supporting this finding is contained in the Company's application and the testimony of its witness Georgiev. [Georgiev Direct Pre-filed testimony, Tr. p. 169, ll. 4-13] Additionally, no other party of record proposed an alternative method for determining just and reasonable rates and the testimony of ORS's witnesses Townes and Carlisle contemplate that return on rate base will be the methodology employed.

The Commission has wide latitude in selecting an appropriate rate-setting methodology. *Heater of Seabrook, supra*, 478 S.E.2d at 830. Even though S.C. Code Ann. § 58-5-240(H) (Supp. 2006) requires the Commission to specify an operating margin in all water and sewer cases, the Commission is not precluded by that statute from employing the return on rate base

approach to ratemaking. *Id.* Operating margin “is less appropriate for utilities that have large rate bases and need to earn a rate of return sufficient to obtain the necessary debt and equity capital that a large utility needs for sound operation.” *Id.* In the Company’s last rate case, we employed the return on rate base methodology. The Company’s unadjusted rate base, according to its application, is \$9,724,172. Given the foregoing, and the uncontradicted testimony that the Company has a need to earn a fair and reasonable return on its investment, the Commission finds that the return on rate base methodology is the appropriate methodology to use in this case.

4. The determination of return on rate base requires consideration of three components, namely: capital structure, cost of equity (or return on equity) and the cost of debt.

The evidence supporting this finding is contained in the testimony of the Company’s and ORS’s expert witnesses on cost of capital. [Ahern Direct Pre-filed testimony, Tr. p. 60, l. 23 - p. 61, l. 6; Carlisle Direct Pre-filed testimony, Tr. p. 354, l. 1 - p. 355, l. 2].

5. In determining the Company’s appropriate return on rate base, the correct capital structure and cost of debt is that of USSC’s parent, Utilities, Inc., at December 31, 2006. Accordingly, for purposes of this proceeding, the correct capital structure 59.83% (debt) and 40.17% (common equity) and the correct cost of debt is 6.60%.

The evidence supporting this finding is contained in the Company’s Application [Application, Exhibit B, Schedule B, p. 4 of 4.], the testimonies and exhibits of Company witness Ahern [Ahern Direct Pre-filed testimony, Tr. p. 61, ll. 7-16; Hearing Exhibit 7, p. 3] and ORS witnesses Carlisle [Carlisle Direct Pre-filed testimony, Tr. p. 354, l. 21 - p. 355, l. 2] and Townes [Hearing Exhibit 11, p. 18]. Use of the cost of debt of Utilities, Inc., verified by the

ORS audit staff, is appropriate as USSC obtains all of its external financing from its parent, which determines how much income USSC can retain. This approach is also consistent with the analysis we employed in the Company's last rate case. [*Id.*]

6. A fair return on equity for USSC is 9.42%.

The evidence supporting this finding is contained in the testimonies of Company witness Ahern and ORS witness Carlisle. As noted by witness Ahern and Carlisle, under the standards enunciated in *Federal Power Commission v. Hope Natural Gas Co.*, 320 U.S. 591 (1944) and *Bluefield Water Works Improvement Co. v. Public Service Comm'n*, 262 U.S. 679 (1922), a utility is entitled to an opportunity to earn a fair rate of return. [Ahern Direct Pre-filed testimony, Tr. p. 136, ll. 7- 11, Tr. p. 64, ll. 12-16; Carlisle Pre-filed Direct Testimony, Tr. p. 352, l. 13 – p. 353, l. 12] The rate of return on common equity is a key figure used in calculating a utility's overall rate of return. *Porter v. South Carolina Public Service Commission*, 333 S.C. 12, 507 S.E.2d 328 (1998).

To determine the cost of equity, both Ahern and Carlisle employed the Capital Asset Pricing Model ("CAPM") and Discounted Cash Flow Model ("DCF"). In addition, Ahern also utilized the Comparable Earnings Model ("CEM") the Risk Premium Model ("RPM"). Both DCF and CAPM are market-based approaches relying upon transactions in the securities markets and estimates of investor expectations. Charles F. Phillips, Jr., *The Regulation of Public Utilities* (1993) at 394.

Carlisle testified that, in developing a fair rate of return recommendation for USSC, he evaluated the return requirements of investors on the common stock of two groups of publicly

held water service companies and then applied the DCF and CAPM methods to determine a recommended return on equity. [Carlisle Pre-filed Direct Testimony; Tr. p. 353, ll. 23-27.] Based upon this analysis, Carlisle recommended a range of 9.42% to 10.14% with more emphasis on the lower end of the range. [Carlisle Pre-filed Direct Testimony; Tr. p. 368, ll. 5-6.]

We accept the conclusions of witness Carlisle and his recommended range of return on equity of 9.42% to 10.14% and set USSC's return on equity at 9.42% for purposes of this proceeding.

7. The Company provides adequate water and wastewater service to its customers and there is no basis to delay, much less deny, rate relief due to a poor "quality of service."

The evidence supporting this finding is contained in the testimony of Company witness Haas. [Haas Direct Pre-filed testimony, Tr. p. 204, l. 14 – p. 208, l. 8, p. 233, l. 23 – p. 234 l. 6] The evidence supporting this finding is also found in Hearing Exhibit No. 13 reflecting the conclusion of ORS that the Company's water and wastewater facilities provide adequate service. [Hearing Exh. No. 1, p. 2.] The Commission makes this finding taking into account the statements made by customers at the two night hearings in this proceeding in which general complaints were aired regarding water quality and general objection to an increase in rates.

With respect to water quality, we note that the Company is required by our regulations to "provide water that is potable and, insofar as practicable, free from objectionable odor, taste, color and turbidity." 26 S.C. Code Ann. Regs. R. 103-770 (1976) (emphasis supplied). Thus, the Commission recognizes that varying subjective opinions of individual customers is not in and of itself indicative of inadequate service.

Additionally, the Commission understands that customers do not generally desire that their utility rates be increased. We cannot, however, consistent with our duty to set just and reasonable rates, base our decision upon customer desire to avoid rate increases. Rather, we are obligated to balance the interests of the customer with the utility's right to earn a fair return. *South Carolina Cable Television Ass'n v. Public Service Comm'n*, 313 S.C. 48, 437 S.E.2d 38 (1993). Similarly, we cannot base our decision on specific customer complaints – aired to us in night hearings and not in the context of the statutory and regulatory procedures established to address specific complaints – under the rubric that such complaints reflect the Company's "quality of service." The Commission is entitled to impose reasonable requirements on jurisdictional utilities to ensure that adequate and proper service is rendered to their customers. *Patton v. S.C. Public Service Comm'n*, 280 S.C. 288, 312 S.E.2d 257 (1984). Accordingly, we may delay implementation of a rate adjustment where inadequate facilities result in service that is not adequate and proper. *Id.* Because we have concluded that the Company provides adequate and proper service, however, there is no basis upon which we may find that Company's quality of service justifies a delay in implementation of rate relief that is otherwise justified. Moreover, making a determination of overall quality of service based upon such specific customer complaints implicates the Company's due process rights to the point that we decline to do so.

8. Using the capital structure of Utilities, Inc. consisting of 59.83% debt and 40.17% common equity, a cost of debt of 6.60%, and a cost of equity of 9.42%, we conclude that an appropriate overall rate of return on rate base of 7.73% is appropriate and should be authorized for USSC. The evidence supporting this conclusion is found in the testimony of ORS Witness

Carlisle. [Carlisle Direct Pre-filed testimony, Tr. p. 368, l. 5-9] The following table indicates the capital structure of the Company, the cost of debt, the cost of equity as approved in this Order, and the resulting rate of return on rate base:

	<u>TABLE A</u>		
	RATIO	EMBEDDED COST	OVERALL COST
Long-term Debt	59.83%	6.60%	3.95%
Common Equity	<u>40.17%</u>	9.42%	<u>3.78%</u>
TOTAL	<u>100.00%</u>		<u>7.73%</u>

9. By its Application, USSC is seeking an increase in its rates and charges for water and sewer service which, if granted, would result in \$1,398,025 of additional revenues to USSC.

The evidence for the finding concerning the amount of the requested rate increase is contained in the Application filed by USSC and in the exhibits of ORS witness Townes. The Application of USSC indicates that it is seeking additional revenues of \$1,393,267 from water operations and additional revenues of \$20,079 from sewer operations which, after adjustment for uncollectible accounts, totals \$1,398,025. [Application, Exhibit B, Schedule B, p. 1 of 4.] Additionally, exhibits sponsored by ORS witness Townes demonstrate that under the rates proposed in the Application USSC would see an increase in revenues of \$1,398,025. [Hearing Exhibit 11, p. 13-14] No party presented any evidence that the requested increase does not amount to \$1,398,025. Therefore, the Commission finds that USSC is seeking an increase in its revenues of \$1,398,025.

10. The appropriate operating revenues for USSC for the test year under present rates and after accounting and pro forma adjustments are \$3,026,716.

The evidence supporting this finding is in the testimony of Company witness Georgiev and ORS witness Townes. The application of USSC, shows per book test year total operating revenues of \$2,848,170. [Application, Exhibit B, Schedule B, p. 1 of 4.] This amount included “Uncollectibles” of \$30,290 and miscellaneous revenues of \$77,521. [*Id.*] ORS adjusted test year operating revenues by \$179,697 to reflect the current customer base at current rates with water being adjusted by \$166,160 and sewer being adjusted by \$13,537. [Hearing Exh. No 11, p. 1-4] ORS also adjusted “Uncollectibles” by (\$1,943) and miscellaneous revenues by \$793 in the per books test year figures. [*Id.*] Thus, ORS computed per book test year total operating revenues of \$3,026,716. Company witness Georgiev agreed with the adjustment to operating revenues proposed by ORS. [Tr. p. 175, ll. 15-18; Tr. p. 186, ll. 8-25] No other party presented any evidence pertaining to per book test year total operating revenues. Therefore, the only evidence before the Commission on per book total operating revenues is the \$3,026,716 and the Commission finds that to be the appropriate per book test year total operating revenues.

11. The appropriate operating expenses for USSC for the test year under present rates and after accounting and pro forma adjustments and adjustments for known and measurable out-of test-year occurrences are \$2,791,193.

The evidence supporting this finding is contained in the Company’s application and in the testimonies of Company witness Georgiev and ORS witness Townes. ORS offered certain adjustments to the Company’s proposed operating expenses for the test year, the majority of

which the Company accepted. [Townes Pre-filed Direct testimony, Tr. p. 279, l. 11 - p. 288, l. 16; Georgiev Pre-filed Rebuttal testimony, Tr. p. 175, l. 12 – P. 177, l. 16] No other party of record offered testimony pertaining to the Company's expenses or proposed adjustments thereto. These operating expenses, and the adjustments agreed to by the Company and ORS, or proposed by ORS, which affect operating expenses, are as follows:

(A) Operators' Salaries:

(1) Position of USSC: Initially, USSC proposed an adjustment to salaries of \$154,024, to be annualized as of December 31, 2006 and to include an adjustment of 3.5% to reflect upcoming salary increases.

(2) Position of ORS: ORS annualized operators' salaries and wages, excluding bonuses, based on a wage increase effective as of July 1, 2007. ORS reviewed the payroll information to verify the pay increase and current level of employees. ORS further verified and recomputed salaries allocated to USSC. This resulted in a reduction to USSC's proposed adjustment of \$29,633, leaving a total adjustment of \$124,391 to salaries and wages.

(3) Decision of the Commission: Upon consideration of this expense item, the Commission adopts the adjustment proposed by ORS and agreed to by the Company.

(B) Purchased Water Expense

(1) Position of USSC: The Company initially proposed an adjustment of (\$67,429) to reflect the removal of purchased water expense with the exception of six subdivisions which do not receive pass-through treatment. At hearing, USSC agreed with the adjustment made by ORS to limit recovery of purchased water expenses.

(2) Position of ORS: ORS also proposed to remove purchased water expenses for those subdivisions which receive pass-through treatment. Additionally, ORS proposed to limit the amount of non-account water USSC charges to customers such that it does not exceed 10% of the total water purchased.

(3) Decision of the Commission: Upon consideration of this expense item, the Commission adopts the adjustment agreed to by the Company and ORS.

(C) Maintenance and Repair Expense

(1) Position of USSC: USSC did not propose an adjustment to this item but agreed with the ORS proposal at hearing.

(2) Position of ORS: ORS proposed to capitalize (\$2,215) related to a well abandonment and remove (\$9,705) of deferred maintenance.

(3) Decision of the Commission: Upon consideration of this expense item, the Commission adopts the adjustment agreed to by the Company and ORS.

(D) Consumer Price Index Adjustments

(1) Position of USSC: The Company initially proposed to increase certain maintenance and general expenses by 4.4% to reflect inflation utilizing the Consumer Price Index ("CPI") for Water and Sewerage Maintenance developed by the United States Department of Labor Bureau of Labor Statistics, the effect of which would have been to add \$18,142 to test year expenses. At hearing, USSC agreed with the position of ORS to disallow this adjustment.

(2) Position of ORS: In its Adjustment items numbers 6-9, 15, and 18-19, ORS disagreed with the Company's proposal to adjust expenses using the CPI on the grounds that the

adjustments would be made based upon economic forecasts which are not known and measureable. Accordingly, the related (\$18,142) adjustment to operating expense charged to plant should also be rejected.

(3) Decision of the Commission: Upon consideration of this expense item, the Commission adopts the agreement of the Company and ORS that this adjustment should not be made.

(E) Transportation Expenses

(1) Position of USSC: The Company initially proposed to increase this expense by \$6,440 to reflect one new employee. At hearing, USSC agreed with the position of ORS to disallow this adjustment.

(2) Position of ORS: ORS verified the vehicles to USSC's operator assignments and determined that no additional vehicles were needed. Therefore, ORS proposed no adjustment in transportation expense.

(3) Decision of the Commission: Upon consideration of this expense item, the Commission adopts the adjustment agreed to by the Company and ORS.

(F) Operating Expense Charged to Plant

(1) Position of USSC: USSC proposed to increase Operating Expense Charged to Plant to reflect the increase in salaries, taxes and benefits for operators. This amount was allocated based on USSC's capitalization ratio of 20.37% resulting in a proposed adjustment of (\$9,341). At hearing, USSC agreed with the adjustment proposed by ORS.

(2) Position of ORS: ORS proposed to increase Operating Expense Charged to Plant for the operators' wage increase. ORS applied the capitalization factor of 20.37% to the total adjustment of \$829,155 for operators' wages, taxes and benefits. This amounted to (\$168,899) less the per book amount of (\$166,343) for a total adjustment of (\$2,556).

(3) Decision of the Commission: Upon consideration of this expense item, the Commission adopts the adjustment agreed to by the Company and ORS.

(G) Transfer of Subdivisions

(1) Position of USSC: USSC did not propose an adjustment to this item but agreed with the ORS proposal at hearing.

(2) Position of ORS: ORS proposed an adjustment of (\$10,167) to reflect the transfer of four subdivisions.

(3) Decision of the Commission: Upon consideration of this expense item, the Commission adopts the adjustment agreed to by the Company and ORS.

(H) DHEC Safe Drinking Water Fee

(1) Position of USSC: USSC did not propose an adjustment to this item but agreed with the ORS proposal at hearing.

(2) Position of ORS: ORS proposed an adjustment necessary to zero out account credit balances related to the collection of DHEC Safe Water Testing Fees.

(3) Decision of the Commission: Upon consideration of this expense item, the Commission adopts the adjustment agreed to by the Company and ORS.

(I) Office Salaries

(1) Position of USSC: USSC initially proposed an adjustment of \$17,229 to annualize office salaries. At hearing, USSC agreed with the adjustment proposed by ORS.

(2) Position of ORS: ORS proposed to annualize office salaries, excluding bonuses, based on a wage increase as of July 1, 2007. ORS reviewed the latest payroll information to verify the pay increase and the current salaries of the employees. The office salaries included the South Carolina office and allocations from the corporate office. ORS's annualized wages totaled \$218,366, less per book wages of \$212,712 for an adjustment of \$5,654.

(3) Decision of the Commission: Upon consideration of this expense item, the Commission adopts the adjustment agreed to by the Company and ORS.

(J) Rate Case Expenses:

(1) Position of USSC: USSC proposed an adjustment for estimated rate case expenses amortized over two years, in addition to the unamortized rate case expenses allowed in Docket No. 2005-217-W/S for an adjustment of \$177,121. These expenses included legal and consulting fees, direct time spent by corporate office staff, travel and associated expenses.

(2) Position of ORS: ORS initially proposed to amortize rate case expenses as of November 13, 2007 of \$104,318 over a two-year period for an adjustment of \$52,159. At the hearing, ORS testified that the Company had provided additional documentation of rate case expenses incurred after the date ORS submitted pre-filed testimony. [Tr. p. 296, l. 23 – p. 297, l. 3.] ORS Witness Townes agreed to audit those proposed additional rate case expenses incurred through the date of the hearing. [Tr. p. 297, ll. 7-17.] Following the hearing, ORS filed an

affidavit as a late-filed hearing exhibit in which ORS Witness Townes affirmed that he examined documentation supporting the expenses and verified that USSC incurred a total of \$184,300 in connection with this proceeding. ORS witness Townes further stated his belief that these expenses were reasonable and prudently incurred in bringing this proceeding to conclusion. [Hearing Exhibit No. 12, p. 1-2]

(3) Decision of the Commission: Upon consideration of this expense item, the Commission adopts the position of ORS and approves rate case expenses in the amount of \$184,300 amortized over two years resulting in an adjustment of \$92,150.

(K) Annualize Pension and Other Benefits:

(1) Position of USSC: USSC proposed to annualize pension and other benefits associated with the wage adjustment for operators and office employees and proposed an adjustment of \$12,999. At hearing, USSC agreed with the ORS position on this adjustment.

(2) Position of ORS: ORS agreed that an adjustment was appropriate in this regard, and proposed to annualize pension and other benefits associated with the wage adjustment for operators and office employees based on the wage increase as of July 1, 2007. Additionally, ORS proposed to charge a portion of the adjustment to plant. The ORS adjustment was \$153,366 less the per book amount of \$141,548, which yielded a test year pension and other benefits total, as adjusted, of \$11,818.

(3) Decision of the Commission: Upon consideration of this expense item, the Commission adopts the adjustment agreed to by the Company and ORS.

(L) Rent Expense

(1) Position of USSC: USSC did not propose an adjustment to this item but agreed with the ORS proposal at hearing.

(2) Position of ORS: ORS proposed to adjust rental expenses as verified by a lease provided by USSC for a total adjustment of (\$1,850).

(3) Decision of the Commission: Upon consideration of this expense item, the Commission adopts the adjustment agreed to by the Company and ORS.

(M) Allocation Adjustment

(1) Position of USSC: USSC proposed an adjustment of (\$149,318) relating to an allocation to the Company which was incorrectly recorded during the test year.

(2) Position of ORS: ORS agreed with the adjustment proposed by the Company.

(3) Decision of the Commission: Upon consideration of this expense item, the Commission adopts the adjustment agreed to by the Company and ORS.

(N) Fines and Penalties

(1) Position of USSC: The Company proposed to remove fines and penalties incurred during the test year for a total adjustment of (\$3,617).

(2) Position of ORS: ORS agreed with the adjustment proposed by the Company.

(3) Decision of the Commission: Upon consideration of this expense item, the Commission adopts the adjustment agreed to by the Company and ORS.

(O) Depreciation Expense Adjustment:

(1) Position of USSC: USSC proposed an adjustment of \$3,449 to annualize Depreciation Expense using the adjusted plant in service. At hearing, USSC agreed with the position of ORS on depreciation expense adjustment.

(2) Position of ORS: ORS proposed to annualize Depreciation Expense. ORS adjusted for plant additions completed after the test year to the plant amount. ORS removed items which were not depreciable or would be depreciated as separate line items. ORS also proposed to add to depreciation expenses extraordinary amortization for retired plant after the test year, and amortization of plant retired prior to the filing of the last rate case. ORS used a depreciation rate of 1.50% (66.67 years) for general plant and 25.00% (4 years) for vehicles and computers. Total depreciation amounted to \$213,986 less the per book amount of \$269,073 for a net adjustment of (\$55,087).

(3) Decision of the Commission: Upon consideration of these expense items, the Commission adopts the adjustment agreed to by the Company and ORS.

(P) Amortization of Contributions in Aid of Construction (CIAC):

(1) Position of USSC: USSC proposed adjust the amortization for CIACs using a 1.50% depreciation rate. The total of USSC's proposed adjustment in this regard was (\$780).

(2) Position of ORS: The ORS proposed to utilize the same depreciation rate as USSC. Utilizing a gross per books CIAC amount of \$109,542, ORS calculates an amortization amount of (\$1,643). Subtracting the per book amount of (\$863) yields a total adjustment of (\$780).

(3) Decision of the Commission: Upon consideration of this expense item, the Commission adopts the adjustment agreed to by the Company and ORS.

(P) Plant Acquisition Adjustment

(1) Position of USSC: The Company proposes to adjust for the amortization of the Plant Acquisition Adjustment allowed in the prior rate case resulting in an adjustment of \$96,464.

(2) Position of ORS: ORS agreed with the adjustment proposed by USSC in the amount of \$96,464.

(3) Decision of the Commission: Upon consideration of this expense item, the Commission adopts the adjustment agreed to by the Company and ORS.

(Q) Payroll Taxes

(1) Position of USSC: USSC initially proposed an adjustment in the amount of \$10,543 for payroll taxes associated with the wage adjustment. At hearing, USSC agreed with the ORS position on this adjustment.

(2) Position of ORS: ORS similarly proposed to adjust for payroll taxes associated with the wage adjustment including FICA, SUTA and FUTA taxes. ORS computed taxes of \$69,446 less the per book amount of \$62,897 resulting in an adjustment of \$6,549.

(3) Decision of the Commission: Upon consideration of this expense item, the Commission adopts the adjustment agreed to by the Company and ORS.

(R) Utility/Commission Taxes & Gross Receipts Tax

(1) Position of USSC: USSC proposed an adjustment for Utility/Commission taxes and Gross Receipts taxes associated with as adjusted revenues in the amount of \$442. The Company agreed at hearing to ORS's proposed adjustment in this regard.

(2) Position of ORS: ORS proposed to adjust Utility/Commission taxes and Gross Receipts taxes by a factor of .0101856 to account for increases in Commission and ORS administration costs and a revenue tax from the Department of Revenue resulting from upward adjustments in revenue. This factor was applied to pro forma revenue adjustments of \$178,547 for a total adjustment to this expense item of \$1,819.

(3) Decision of the Commission: Upon consideration of this item, the Commission adopts the adjustment agreed to by the Company and ORS.

(S) Income Taxes:

(1) Position of USSC: USSC proposed to adjust taxes for accounting and pro forma adjustments. USSC used a 5% rate for state taxes and a 35% rate for federal taxes.

(2) Position of ORS: ORS also proposed to adjust for the effect of income taxes after accounting and pro forma adjustments. Like USSC, ORS used a 5% rate for state taxes and a 35% rate for federal taxes.

(3) Decision of the Commission: The Commission adopts the method proposed by the Company and ORS to adjust taxes for accounting and pro forma adjustments. The Commission finds that a 5% rate for state taxes and a 35% rate for federal taxes is appropriate as those are the actual tax rates that apply to USSC. The methodology is adopted for use in this proceeding, but the actual adjustments will vary from the proposed adjustments as the

adjustments adopted herein are different than the adjustments used by the parties in their calculations. Based on the adjustments adopted herein, the Commission approves an adjustment for Income Taxes of \$64,072 for the tax effect of accounting and pro forma adjustments.³

(T) Interest on Customer Deposits:

(1) Position of USSC: The Company did not propose an adjustment for this item, but agreed at hearing with the adjustment proposed by ORS in this regard.

(2) Position of ORS: ORS proposed to annualize Interest on Customer Deposits by using the ORS verified amount as of December 31, 2006, of \$113,812 and to apply the Commission approved interest rate of 3.5% resulting in an adjustment of \$3,983.

(3) Decision of the Commission: The Commission adopts the adjustment agreed to by the Company and ORS. This adjustment annualizes the Interest on Customer Deposits at the end of the test year at the interest rate of 3.5%, which is the Commission approved rate for interest on customer deposits.

(U) Taxes Other Than Income— Proposed Increase

(1) Position of CWS: The Company proposed to increase Taxes Other Than Income by \$16,112 to reflect the effect of the proposed increase. At hearing, USSC agreed to the ORS position on this item.

³ Our analysis of this expense Item, as well as our analysis of expense Item V, is affected by our determination of interest expense. However, because we have heretofore only recognized interest expense itself as an allowable expense in cases in which we have employed the operating margin methodology (*see, e.g., In re Application of Palmetto Utilities, Inc.*, Order No. 97-699, Docket No. 96-376-S, August 12, 1997), we will address the Company's interest expense in the portion of our order calculating the resultant operating margin as required by S.C. Code Ann. §

(2) Position of ORS: ORS proposed that Taxes Other Than Income be adjusted to reflect the effect of the proposed increase, but used a factor of 0.0101856 to arrive at an adjustment of \$14,145.

(3) Decision of the Commission: Upon consideration of this item, the Commission adopts the ORS position on this adjustment which was agreed to by the Company.

(V) Income Taxes – Proposed Increase

(1) Position of CWS: The Company proposed that Income Taxes be established using current tax rates on calculated taxable income, which yields \$528,581 in allowable income tax. At hearing, the CWS agreed with the ORS position on this item.

(2) Position of ORS: ORS proposed that Income Taxes be established after taking into account the proposed increase, which yields \$525,775 in allowable income tax.

(3) Decision of the Commission: Upon consideration of this item, the Commission adopts the ORS position on this adjustment which was agreed to by the Company.

Summary of Adopted Adjustments to Expenses:

The total effect of the adjustments to test year expenses adopted herein increase Operating and Maintenance Expenses by \$26,085, decrease General and Administrative Expenses by (\$45,163), increase Depreciation and Amortization Expenses by \$40,597, increase Taxes Other Than Income by \$8,368, increase Income Taxes by \$64,072, and increase Interest on Customer Deposits by \$3,983. The net effect of the adjustments adopted herein on Total

Operating Expenses is to increase Total Operating Expenses by \$97,942. Thus, operating expenses for the test year under present rates and after accounting and pro forma adjustments and adjustments for known and measurable out-of-test year occurrences are \$2,791,193.

The following table indicates the Company's gross revenues for the test year after adjustments approved herein, under the presently approved rate schedules; the Company's operating expenses for the test year after accounting and pro forma adjustments and adjustments for known and measurable out-of-test year occurrences approved herein; and the rate of return on rate base under the presently approved schedules for the test year:

TABLE B

	<u>Before Increase</u>
Operating Revenues	\$3,026,716
Operating Expenses	<u>\$2,791,193</u>
	\$235,523
ADD: Allowance for Funds Used During Construction	0
Customer Growth	<u>\$656</u>
TOTAL INCOME FOR RETURN	<u>\$236,179</u>
Return on Rate Base	<u>2.58%</u>

12. The appropriate rate base for USSC for the test year after accounting and pro forma adjustments and adjustments for known and measurable occurrences outside the test year is \$9,141,815.

The evidence supporting this finding is contained in the Company's application and in the testimonies of Company witness Georgiev and ORS witness Townes. ORS offered certain adjustments to the Company's proposed rate base which the Company accepted. [Townes Pre-filed Direct testimony, Tr. p. 285, l. 8 - p. 287, l. 19; Townes Pre-Filed Surrebuttal Testimony, Tr. p. 290, ll. 11-19; Georgiev Pre-filed Rebuttal Testimony, Tr. p. 176 , l. 26 – p. 177, l. 11, p. 178, ll. 12-18] No other party of record offered testimony pertaining to the Company's rate base or proposed adjustments thereto. The adjustments to rate base agreed to by the Company and ORS are as follows:

(A) Plant Additions from Projects

(1) Position of USSC: USSC proposed to adjust for plant additions. The Company agreed at hearing to ORS's proposed adjustment in this regard.

(2) Position of ORS: ORS agreed that known and measurable plant additions completed after the test year and providing service to present customers should be included and verified this amount to be \$873,741.

(3) Decision of the Commission: Upon consideration of this item, the Commission adopts the adjustment as calculated by ORS.

(B) Plant Additions from Capitalized Time and Routine Activities

(1) Position of USSC: USSC proposed to adjust for plant additions from capitalized time and routine activities in the amount of \$487,949. The Company agreed at hearing to ORS's proposed adjustment in this regard.

(2) Position of ORS: ORS proposed to adjust for plant additions from capitalized time and the related materials. ORS verified an amount of \$477,882 to USSC books and records and found that these additions are known and measurable and providing service to present customers.

(3) Decision of the Commission: Upon consideration of this item, the Commission adopts the adjustment as calculated by ORS.

(C) Pro Forma Plant Retirements

(1) Position of USSC: USSC proposed to adjust for plant retirements associated with completed work orders as of October 2007 in the amount of (\$192,667). The Company agreed at hearing to ORS's proposed adjustment in this regard.

(2) Position of ORS: ORS also proposed an adjustment for retired plant associated with additions after the test year in the amount of (\$137,713).

(3) Decision of the Commission: Upon consideration of this item, the Commission adopts the adjustment as calculated by ORS.

(D) Vehicle Allocation

(1) Position of USSC: USSC did not initially propose an adjustment for vehicle allocation. At hearing, USSC agreed with the adjustment proposed by ORS in this regard.

(2) Position of ORS: ORS proposed to adjust the vehicle allocation by (\$524,431).

(3) Decision of the Commission: Upon consideration of this item, the Commission adopts the adjustment agreed to by the Company and ORS.

(E) Elevated Storage Tank

(1) Position of USSC: The Company proposed an adjustment of (\$132,242) to remove from rate base an elevated storage tank which is no longer used by the Company as ordered in Docket No. 2005-217-W/S. At hearing, USSC agreed with the adjustment proposed by ORS in this regard.

(2) Position of ORS: ORS proposed a similar adjustment in the amount of (\$102,188).

(3) Decision of the Commission: Upon consideration of this item, the Commission adopts the adjustment agreed to by the Company and ORS.

(F) Extraordinary Retirement

(1) Position of USSC: USSC proposed an adjustment for extraordinary retirement of plant no longer used and useful by the Company in the amount of (\$126,989). At hearing, USSC agreed with the adjustment proposed by ORS in this regard.

(2) Position of ORS: ORS also proposes to adjust for extraordinary retirement of wells, structures and tanks no longer used and useful by USSC. These retirements include those identified in Docket NO. 2005-217-W/S as well as those retirements completed in 2006 and 2007. ORS removed these plant items based on restated plant and accumulated depreciation for total removal of net plant of (\$173,253).

(3) Decision of the Commission: Upon consideration of this item, the Commission adopts the adjustment agreed to by the Company and ORS.

(G) Plant Transfers

(1) Position of USSC: The Company did not initially propose an adjustment for transfer of plant. At hearing, USSC agreed with the adjustment proposed by ORS in this regard.

(2) Position of ORS: ORS proposed to remove (\$186,387) for the plant costs associated with the transfer of Arrowhead Shores and Lakewood Estates as ordered by the Commission in Order No. 2007-580. ORS also proposed to remove (\$4,863) for the plant costs associated with the transfer of Pleasant Hill as ordered by the Commission in Order No. 2006-350 and South Congaree as ordered by the Commission in Order No. 2002-567.

(3) Decision of the Commission: Upon consideration of this item, the Commission adopts the adjustment agreed to by the Company and ORS.

(H) Organizational Costs

(1) Position of USSC: USSC proposed an adjustment of (\$25,417) to remove organizational costs as ordered in Docket No. 2005-217-W/S.

(2) Position of ORS: ORS agreed with the adjustment proposed by USSC.

(3) Decision of the Commission: Upon consideration of this item, the Commission adopts the adjustment agreed to by the Company and ORS.

(I) Accumulated Depreciation

(1) Position of USSC: The Company proposed an accumulated depreciation adjustment of \$424,537 to reflect actual and estimated general ledger additions, actual and estimated capitalized time additions, and actual and estimated pro forma plant additions and retirements. At hearing, USSC agreed to the ORS position on this adjustment.

(2) Position of ORS: ORS proposed to adjust accumulated depreciation by \$456,693 consistent with its annualized depreciation expense calculation. This adjustment reflects accumulated depreciation for vehicle allocations, subdivision transfers, pro forma retirements and extraordinary retirements.

(3) Decision of the Commission: Upon consideration of this item, the Commission adopts the ORS position on this adjustment which was agreed to by the Company.

(J) Cash Working Capital

(1) Position of USSC: USSC proposed to adjust cash working capital based on pro forma expense by \$19,532. At hearing, USSC agreed to the position of ORS on this adjustment.

(2) Position of ORS: ORS proposed an adjustment to cash working capital based on pro forma expenses. This adjustment reflects the working capital needed prospectively based on the accounting and pro forma adjustments. The resultant adjustment is (\$2,384).

(3) Decision of the Commission: Upon consideration of this item, the Commission adopts the ORS position on this adjustment which was agreed to by the Company.

(J) Plant Acquisition Adjustment

(1) Position of USSC: USSC proposed to remove the unamortized balance of Plant Acquisition Adjustment from rate base as ordered by the Commission in the Company's last rate case resulting in an adjustment of (\$1,200,820).

(2) Position of ORS: ORS agreed with the adjustment proposed by USSC to remove the unamortized Plant Acquisition Adjustment.

(3) Decision of the Commission: Upon consideration of this item, the Commission adopts the USSC position on this adjustment which was agreed to by ORS.

(K) Deferred Maintenance

(1) Position of USSC: USSC proposes to remove deferred maintenance from the rate base in the amount of (\$28,218).

(2) Position of ORS: ORS agreed with the adjustment proposed by USSC.

(3) Decision of the Commission: Upon consideration of this item, the Commission adopts the USSC position on this adjustment which was agreed to by ORS.

Summary of Adopted Adjustments to Rate Base:

The total effect of the adjustments to rate base adopted herein increase Gross Plant in Service by \$197,371, increase Accumulated Depreciation by \$456,693 [thereby resulting in an increase to Net Plant in Service to \$654,064], reduce Cash Working Capital by (\$2,384), reduce Plant Acquisition Adjustment by (\$1,200,820), and reduce Deferred Maintenance by (\$28,218). The total of the adjustments adopted herein reduce total rate base by (\$577,358). Thus, after the adjustments adopted herein, as adjusted rate base is \$9,146,815. The following table indicates the Company's rate base for its jurisdictional operations in South Carolina after accounting and pro forma adjustments approved herein:

TABLE C

Gross Plant in Service	\$11,331,478
LESS: Accumulated Depreciation	\$1,477,620
Net Plant in Service	\$9,853,858
ADD:	
Cash Working Capital	\$262,837

DEDUCT:

Advances in Aid of Construction	\$0
Contributions in Aid of Construction	\$107,639
Plant Acquisition Adjustment	\$0
Accumulated Deferred Income Taxes	\$705,114
Deferred Maintenance	\$28,218
Customer Deposits	\$128,909

TOTAL YEAR END RATE BASE	<u>\$9,146,815</u>
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13. A customer growth adjustment using the method for calculating customer growth as proposed by ORS is appropriately included in computing the income requirement of USSC.

The evidence supporting this finding is contained in the testimonies of Company witness Georgiev and ORS witnesses Townes and Morgan. [Georgiev Pre-Filed Rebuttal Testimony, Tr. p. 175, ll. 15-16. Townes Pre-filed Direct Testimony, Tr. p. 278, ll. 19-20 Morgan Pre-filed Direct Testimony, Tr. p. 311, ll. 14-15; Hearing Exh. No. 19, p. 20; Lubertozzi Rebuttal Pre-filed testimony, Tr. p. 490, ll. 19-22, p. 491, ll. 10-14.] No other party of record offered testimony pertaining to a growth adjustment. ORS computed customer growth, as adjusted, of \$656.

The Commission adopts the customer growth methodology as proposed by the ORS to include the adjustments adopted herein. ORS's adjustment is applied to Net Operating Income. As the ORS's customer growth adjustment is applied to Net Operating Income, the adjustment attributes an equal contribution to net income by each customer added. By applying the adjustment to Net Operating Income, ORS's customer growth adjustment recognizes growth in both revenues and expenses.

In *Porter v. South Carolina Public Service Commission*, 328 S.C. 222, 493 S.E.2d 92 (1997), the Supreme Court of South Carolina stated “adjustments for known and measurable changes in expenses are within the discretion of the Commission. Absolute precision is not required so long as adjustments are ‘known and measurable’ within a degree of reasonable certainty.” The Commission finds that the ORS’s adjustment for customer growth meets this definition as stated by the Supreme Court. Calculation of additional revenues from additional customers may be made quite easily. However, calculation of expenses associated with the addition of customers is not as straightforward. While it would be difficult to calculate the precise amount of expenses that the addition of one customer would add, it does not make sense to ignore expenses altogether when looking at customer growth. Some expenses may increase proportionally with the addition of customers while other expenses may not increase at a proportional rate. While ORS’s adjustment may not calculate increase in expenses with absolute precision, ORS’s adjustment, which is applied to Net Operating Income and which therefore applies to both revenues and expenses, is a reasonable adjustment that comes with a “reasonable degree of certainty.”

14. The income requirement for USSC, using the return on rate base of 7.73% found appropriate in this Order and the adjusted rate base of \$9,146,815, is \$707,122.

Under rate of return on rate base regulation, the Commission must approve an income requirement that will permit the Company to cover operating costs and provide an opportunity to earn the approved rate of return on the rate base. The determination of the income requirement requires a calculation using approved Operating Revenues and approved Operating Expenses to

determine Net Operating Income for Return. Net Operating Income for Return is then increased for approved AFUDC and approved Customer Growth resulting in Total Income for Return. The following table illustrates the calculations of USSC's Total Income for Return:

TABLE D

	<u>After Increase</u>
Operating Revenues	\$3,794,734
Operating Expenses	<u>\$3,089,791</u>
Net Operating Income For Return	\$704,943
ADD: Allowance for Funds Used During Construction	0
Customer Growth	\$2,179
TOTAL INCOME FOR RETURN	<u>\$707,122</u>
 Return on Rate Base	 <u>7.73%</u>

As demonstrated on Table D, Total Income for Return after the increase approved herein is \$707,122.

15. In order for USSC to have the opportunity to earn its income requirement of \$707,122, USSC must be allowed additional revenues totaling \$772,965.

In order for the Company to have the opportunity to earn the 7.73% rate of return on rate base approved herein, the Commission must increase revenues sufficient to achieve a Total Income for Return of \$707,122, as calculated in Finding of fact No. 13. The additional revenue calculated for the Company to have the opportunity to earn its approved rate of return of 7.73% requires an increase of \$772,965.

16. In designing rates for USSC, a uniform rate schedule for customers is appropriate.

Upon determination of the revenue requirements for a utility in a ratemaking proceeding, the next step is the determination of the specific rates or rate structure that will yield the required revenues. A generally accepted principle is that proper utility regulation requires the exercise of control over a utility's rate structure. *The Regulation of Public Utilities, supra*.

In designing rates for the Company, the Commission strives to set rates that are "just and reasonable" and without undue discrimination. In the case before the Commission, USSC has requested uniform rates. The Commission finds that such a uniform rate schedule is fair and reasonable and is in the best interests of the customers and USSC and notes that the Commission previously authorized USSC to implement a uniform rate schedule in Docket No. 2005-217-W/S. Furthermore, it is incumbent upon us to approve rates which **fairly** distribute the Company's revenue requirement. *Seabrook Island POA v. S.C. Public Service Comm'n*, 303 S.C. 493, 401 S.E.2d 672 (1991). A fair distribution of the Company's revenue requirement cannot exist if the Company's customers are subjected to dissimilar rate adjustments.

17. The resultant operating margin for USSC, based upon the adjustments and rates approved herein, is 9.12%. S.C. Code Ann. Section 5-240(H) (Supp.2006) provides, in part, that "[t]he [C]ommission shall specify an allowable operating margin in all water and wastewater orders." Based upon the rate of return on rate base approved herein and the revenues and expenses also approved herein, the corresponding operating margin is calculated to be 9.12%. The following Table reflects an operating margin of 9.12%:

TABLE E

Operating Revenues	\$3,794,734
Operating Expenses	<u>\$3,089,791</u>
Net Operating Income	\$704,943
ADD: Allowance for Funds Used During Construction	0
Customer Growth	<u>\$2,179</u>
Total Income for Return	<u>\$707,122</u>
Operating Margin (After Interest Expense of \$361,188) ⁴	<u>9.12%</u>

18. The Company's requested modifications to its water schedule provisions adding language providing that, for water service to customers not described in the South Carolina Department of Health and Environmental Control Guidelines for Unit Contributory Loadings for Domestic Wastewater Treatment Facilities, 25 S.C. Code Ann. Regs. 61-67 Appendix A (Supp. 2006), such as irrigation service, the tap fees shall be the same as those for one Single Family Equivalent ("SFE") are appropriate and are hereby approved.

The evidence supporting this finding of fact is contained in the testimony of the Company's witness Haas [Haas Pre-filed Direct Testimony, Tr. p. 208, ll. 14-21]. As noted by

⁴ USSC proposed to include interest expense of \$403,400 based upon the Company's as adjusted rate base, 59.83%/40.17% debt/equity ratio and a cost of debt of 6.60%. Based upon the proposed increase, ORS proposed to include interest expense of \$361,188, which resulted in an adjustment to the Company proposal of (\$42,212), to reflect usage of the adjusted rate base and not the Company pro forma rate base. At hearing, USSC agreed to the ORS position on this item. The Commission adopts the ORS position on this adjustment which was agreed to by the Company.

USSC Witness Haas, this modification would clarify that customers who wish to receive irrigation or similar types of water service from USSC would only be required to pay a tap fee based upon one SFE. Given that no party opposed this additional language, we find the Company's requested rate schedule modifications are appropriate and approve same.

19. The Commission finds that ORS's request to modify the Company's tariff to provide that USSC shall limit the amount of non-account water charged to customers not to exceed 10% of total water purchased from the governmental body or agency or other entity is appropriate and is hereby approved.⁵ The Commission further finds that "non-account water" is defined as the difference between water supplied and metered water use plus other account for water including documented flushing and leaks.

The evidence supporting this finding of fact is contained in the testimonies and exhibits of ORS Witness Morgan and USSC Witness Haas [Morgan Pre-filed Direct Testimony, Tr. p. 313, l. 21 – p. 315, l. 2; Hearing Exhibit No. 13, p. 43; Haas Pre-filed Rebuttal Testimony, Tr. p. 235, ll. 2-4]. The proposed language would provide an incentive for the Company to identify and repair leaks on the distribution system in order to curtail unnecessary use of water in utility operations, protect the consumer, and encourage water conservation. The Commission notes that the Company agreed to this proposed modification and we therefore find ORS's proposed rate schedule modifications are appropriate and approve same.

⁵ The Commission notes that ORS initially requested an additional change to the Company's tariff regarding cross-connection inspections. In surrebuttal testimony, however, ORS Witness Morgan acknowledged that no change to the tariff was necessary in this regard. [Tr. p. 320, ll. 3-4]. Therefore, we do not address this issue herein.

20. The Commission finds that, for those systems which have a reported non-account water percentage higher than 10% or a reported negative non-account water percentage, USSC shall perform a water audit in accordance with the American Waterworks Association Manual of Water Supply Practices, Water Audits and Leak Detection and develop a leak detection program.

The evidence supporting this finding of fact is contained in the testimonies and exhibits of ORS Witness Morgan and USSC Witness Haas [Morgan Pre-filed Direct Testimony, Tr. p. 315, l. 5 – p. 316, l. 3; Hearing Exhibit No. 13, p. 40-42; Haas Pre-filed Rebuttal Testimony, Tr. p. 234, l. 10 – p. 235, l. 2]. We find that a 10% water loss standard is reasonable and appropriate in accordance with standards established by the American Waterworks Association and as previously adopted by this Commission in Order No. 2002-866, dated December 23, 2002, Docket No. 2002-239-W/S. We further find that a water audit and leak detection program for those systems identified by ORS which have either a negative reported non-account water percentage or a reported non-account water percentage which exceeds 10% would help USSC reduce water and revenue losses and allow it to make better use of its water resources. Given that the Company did not oppose this additional language, we find ORS's recommendation to be appropriate and approve same.

IV. CONCLUSIONS OF LAW

Based upon the Findings of Fact as contained herein and the record of the instant proceeding, the Commission makes the following Conclusions of Law:⁶

⁶ The Commission's analyses which give rise to the Conclusions of Law are contained in the discussions of Section III of this Order.

1. Rate of return on rate base is the appropriate guide for the Commission to use in determining the lawfulness of the rates of USSC and in fixing of just and reasonable rates for USSC to charge its customers in South Carolina.

2. A fair rate of return on rate base for the operation of USSC in South Carolina is 7.73%. This rate of return is calculated using a capital structure of 59.83% debt and 40.17% equity, a cost of debt of 6.60%, and a return on equity of 9.42%. Based on the discussion and analysis of the Commission as detailed in this Order, these components of capital structure, cost of debt, and cost of equity and the resulting rate of return on rate base produce a fair and reasonable rate of return which the Company should have the opportunity to earn.

3. For the test year of December 31, 2006, the appropriate operating revenues, under present rates and as adjusted in this Order, are \$3,026,716, and the appropriate operating expenses, under present rates and as adjusted in this Order, are \$2,791,193.

4. Using the rate base as adjusted in this Order of \$9,141,815 and the return on rate base of 7.73% found to be fair and reasonable in this Order, the income requirement for USSC is \$3,794,734.

5. In order for USSC to have an opportunity to earn the return on rate base found reasonable and approved in this Order and to meet the income requirement, USSC must be allowed additional revenues of \$772,965.

6. The rates approved in this Order are designed to be just and reasonable without undue discrimination and are also designed to meet the revenue requirements of the Company.

7. Based on the adjustments approved herein and the increase in rates approved herein, the appropriate operating margin for USSC on its South Carolina operations is 9.12%.

8. The Company's requested modifications to certain terms and conditions of service in its rate schedule is appropriate.

IT IS THEREFORE ORDERED THAT:

1. USSC is granted a rate of return on rate base for its water and sewer operations in South Carolina of 7.73%.

2. The schedule of rates and charges attached hereto as Appendix A, which include the Company's proposed modifications, are hereby approved for service rendered on or after the date of this Order. Further, the schedules are deemed to be filed with the Commission pursuant to S.C. Code Ann. Section 58-5-240 (Supp. 2006).

3. Should the rates set forth in the schedules approved herein and attached hereto as Appendix A not be placed in effect until three (3) months from the effective date of this Order, the rates set forth in the approved schedules shall not be charged without written permission from the Commission.

4. USSC shall maintain its books and records for water and sewer operations in accordance with the NARUC Uniform System of Accounts for Class A Water and Sewer Utilities, as adopted by this Commission.

5. USSC's tariff shall be amended to provide a limit of 10% unaccounted for water related to its pass-through provision applicable to certain subdivisions or areas within the USSC system.

6. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

G. O'Neal Hamilton, Chairman

ATTEST:

C. Robert Moseley, Vice Chairman

(SEAL)